

The 12th February, 1986

No. 9/6/86-6Lab./543.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala in respect of the dispute between the workman and the management of Haryana Roadways, Kaithal Depot, Kaithal.

IN THE COURT OF SHRI V. P. CHAUDHARY,
PRESIDING OFFICER,
LABOUR COURT, AMBALA

Reference No. 188 of 1984

SHRI SURAJ MAL, WORKMAN, AND THE
MANAGEMENT OF HARYANA ROADWAYS,
KAITHAL DEPOT, KAITHAL

Present:

Shri Madhu Sudan Saran Cowshish for
workman.

Shri A. R. Goyal, for the respondent.

AWARD

The Hon'ble Governor of Haryana in the exercise of powers conferred by clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947, referred the dispute between Shri Suraj Mal, workman and the management of Haryana Roadways, Kaithal to Labour Court, Faridabad. The terms of the reference are as under :—

"Whether the termination of services of Shri Suraj Mal, workman was justified and in order? If not, to what relief is he entitled to?"

On constitution of Labour Court at Ambala the reference was received by transfer.

To trace out the history of litigation between Shri Suraj Mal, workman and the management of Haryana Roadways, Kaithal, briefly narrated the facts as alleged by the parties are as under.

Shri Suraj Mal, workman, asserted through his claim statement that he served the respondent for short period thereafter on flimsy grounds his service were dispensed with. No proper inquiry was held by the inquiry officer. He was not afforded an opportunity to cross-examination the witnesses, to lead defence evidence and no opportunity of being heard in

person was afforded so he has prayed that he is entitled to reinstatement with continuity in service with full back wages.

Respondent-management contested the reference alleged that the reference is not maintainable because the appeal filed by the workman against the order of the General Manager, Haryana Roadways, Kaithal to the State Transport Commissioner has been dismissed. It was further contended that a proper enquiry was conducted. Workman was afforded opportunity to cross-examine the witness to lead defence evidence and was personally heard by the General Manager, Haryana Roadways as well as State Transport Commissioner, Haryana, before disposing of his case.

On the pleadings of the parties the following issues have been framed.

ISSUE NO. 1

Whether the termination of services of the workman is proper, justified and in order? If not, to what relief is he entitled?

ISSUE NO. 2

Relief.

I have heard Shri Madhu Sudan Saran Cowshish for workman and Shri A. R. Goyal for respondent and have perused the oral and documentary evidence placed on the file. My issue-wise findings are as under :—

ISSUE NO. 1

In support of this issue management examined MW-1 Shri Sat Parkash Clerk. He stated that workman was employed as a conductor. He committed fraud. Charge-sheet, Exhibit M-1 was served upon by him. Workman submitted reply, Exhibit M-2 which was found unsatisfactory. Inquiry Officer was appointed. Copy of order is Exhibit M-3. Inquiry proceedings are Exhibit M-4. Findings of Inquiry Officer is Exhibit M-5. Show-cause notice is Exhibit M-6. Answer of the same is, Exhibit M-7. After perusal of inquiry report and affording personal hearing, final order Exhibit M-8 were passed. Shri O. P. Sera appeared as MW-2. Shri Ranjit Singh, Inspector appeared as MW-3. Both the witnesses deposed that in June, 1977 Bus No. 5590 was checked by them on 23rd June, 1977 near Samalkha. 22 passengers were found without tickets who boarded the bus from Panipat and alighted at Samalkha. On enquiry the passengers told them that they have paid price of tickets to Shri Suraj

Mal, Conductor but Conductor did not issue tickets to them. Every ticket costed Rs. 1.15 Paise. 22 passengers were without tickets and thus Suraj Mal, workman, embezzled Rs. 25.30 Paise. Thereafter 22 tickets were taken from the Conductor who tried to punch them but he was not allowed to do so. Only 5 passengers who boarded the bus from Panipat Bus Stand were with tickets.

AW-1 Shri Suraj Mal appeared and stated that the 22 passengers were I.T.I. girls. They did not purchase any tickets from him. He asked them to purchase tickets. He did not charge any price of tickets from the I.T.I. students. The Inspector forcibly snatched the tickets from him and made false report.

He stated that the General Manager, Haryana Roadways, Kaithal called him for personal hearing on 27th June, 1978 but was not given an opportunity of being heard. He submitted an application to the General Manager, Haryana Roadways, Kaithal but in spite of that he was not heard but this statement of the workman appears to be incorrect because dealing hand Shri Om Parkash submitted application of workman Shri Suraj Mal to the General Manager and the General Manager, Haryana Roadways, Kaithal called the workman and heard him. This fact is supported by order of the General Manager which is at page No. 20 on inquiry file which reads that Shri Suraj Mal, Conductor No. 133 was heard in person. He did not say or submit any thing in his defence so his services were terminated.

In view of the above statement I am of the considered opinion that after going through the statement of the witnesses and inquiry proceedings it is evident that the proper enquiry was conducted. There is no lapse on the part of the Inquiry Officer regarding affording the opportunity of cross-examining the witnesses, leading defence and the General Manager also afforded an opportunity of personal hearing. Workman Shri Suraj Mal was caught carrying 22 passengers without tickets after charging from them price of tickets and did not issue any tickets to them shows that workman embezzled public funds, so his termination order is according to law and accordingly it is upheld. This issue is decided, in favour of the management and against the workman.

ISSUE NO. II

Since the workman has failed to prove the termination order is illegal so he is not entitled

to relief claimed by him. So I pass my award regarding the dispute in hand accordingly.

The 10th September, 1985.

V. P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala.

Endorsement No. 2070, dated Ambala City, the 11th September, 1985.

Forwarded, (four copies), to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

V. P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala.

No. 9/6/86-6Lab./547.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana, is pleased to publish the following award of Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of the Secretary, Haryana State Electricity Board, Chandigarh (ii) XEN (C) HYDEL PROJECT, Haryana State Electricity Board, Bhund Kalan, Tehsil Jagadhri.

IN THE COURT OF SHRI V. P. CHAUDHARY
PRESIDING OFFICER,
LABOUR COURT, AMBALA

Reference No. 15 of 1984

SHRI RAJ PAUL, WORKMAN AND THE
MANAGEMENT OF THE SECRETARY,
HARYANA STATE ELECTRICITY BOARD,
CHANDIGARH (ii) XEN (C) HYDEL PROJECT,
HARYANA STATE ELECTRICITY
BOARD, BHUND KALAN,
TEHSIL JAGADHRI

Present:

Shri M. S. Rathi, for the workman.
Shri S. Bindra, for the respondent.

AWARD

The Hon'ble Governor of Haryana in the exercise of its powers conferred—vide clause (C) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947 has referred dispute between

Shri Raj Paul, workman and the Messrs Haryana State Electricity Board, etc., to this Court. The terms of reference are as under :—

"Whether the termination of services of Shri Raj Paul, workman is justified and correct, if not, to what relief is he entitled ?"

Workman Raj Paul alleged that he was employed with the respondent as a Chowkidar, he wanted to proceed on leave but the leave application was rejected.

Ultimately he was forced to resign by the Junior Engineer. Accordingly he submitted his resignation. Later on he withdrew his resignation and approached the management that he be taken on duty again but the management refused to oblige him. Hence the case is.

On the other hand the case of the management as per its pleadings is that Raj Paul himself submitted his resignation which was accepted and he was relieved forthwith. It was also contended that Shri Raj Paul never approached the management with the request that he should be taken on duty again. A letter for revoking the resignation was received but since the resignation of the workman had already been accepted. So that letter was filed.

On the pleadings of the parties the following issues were framed :

ISSUES:

- (1) Whether the acceptance of resignation was conveyed to workman prior to withdrawal of his resignation ? OPR
- (2) Whether application is bad for non-pleadings proper parties as alleged.
- (3) Whether reference is belated one. If so, its effect ? OPR
- (4) Relief.

I have heard Shri M. S. Rathie for workman and Shri S. Bindra for respondent's management. After going through the whole evidence and also after affording the thoughtful consideration to the whole matter. My issuewise findings are as under :—

ISSUE NO. 1:

Onus of this issue was upon the management, the management to discharge its onus examined Shri H. C. Gupta, XEN, Thermal Power Project, Panipat. He deposed that in June, 1982, he was

posted as XEN, Bhundkalan. Raj Paul, workman, was posted at channel, one as a Chowkidar. Shri Raj Paul submitted resignation, Exhibit M-1 to S.D.O. Later submitted the resignation to him which he accepted and asked the S.D.O. concerned to relieve Raj Paul immediately. This statement further finds corroboration from the statement of Shri L. D. Kutharia who appeared as MW-3. MW-2 Shri Nardesh Kumar, Dryer, also stated that Raj Paul, workman, submitted his resignation voluntarily in his presence saying that his domestic conditions do not permit him to continue in service. He also stated that his brother had purchased one truck. He has to work on that truck. Later on the truck met with an accident which was impounded by the police and that is still lying at the police station.

Shri Gurmeet, J.E., appeared as MW-1. He also supported the case of respondent-management.

To rebut the above evidence, Shri Raj Paul alone appeared as AW-1. He rebutted the evidence of the management.

In view of the above evidence I am of the opinion that four witnesses appeared from the side of management they deposed that Raj Paul submitted his resignation voluntarily which was accepted there and then and he was relieved of his duties immediately.

Exhibit A-1 is based on later thought-story which might have been advised by some wise brain. This letter was written by the workman to the department when truck of his brother met with an accident and workman was out of job.

Statement of MWS are most reliable, then the bald statement of workman Raj Paul could not afford to examine even a single witness in support of his case which shows that he voluntarily submitted his resignation which was accepted by the respondent immediately and he was relieved of his duties. So this issue is decided in favour of respondent's management against the workman.

ISSUE NO. 2:

From the reference it is evident that Haryana State Electricity Board has been sued by Shri Raj Paul, workman, through its Secretary when the Haryana State Electricity Board is a juristic person so it should have been sued independently and not through its Secretary

so the reference is bad for non-joinder of proper parties to litigation so this issue is decided, in favour of, management against workman.
ISSUE NO. 3.

The demand notice was served by the workman after a period of two years. Accordingly it is belated one and later thought so claim of workman is hit by delays and laches.
ISSUE NO. 4 : RELIEF:

For the foregoing reasons on the basis of my issuewise findings I hold that Shri Raj Paul, Chowkidar, submitted his resignation voluntarily, he is not at all entitled to any relief of his reinstatement wages towards notice period or any retrenchment compensation, etc. I pass my award regarding the controversy between the parties accordingly.

The 10th December, 1985.

V. P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala.

Endorsement No. 3165, dated 13th December, 1985.

Forwarded (four copies) to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

V. P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala.

No. 9/6/86-Lab./749.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala, in respect of the dispute between the workman and the management of M/s National Fertilizers Limited, Binjhol, Panipat.

IN THE COURT OF SHRI V. P. CHAUDHARY,
PRESIDING OFFICER,

LABOUR COURT, AMBALA

Reference No. 268 of 1984

(Old No. 121 of 1980)

RAM MEHAR SINGH, WORKMAN AND THE
MANAGEMENT OF THE M/S NATIONAL
FERTILIZERS LIMITED, BINJHOL,
PANIPAT

Present:

Shri Raghbir Singh Malik for the workman.
Shri S. Kaushal for the respondent.

AWARD

The Hon'ble Governor of Haryana in the exercise of its powers conferred by clause (C) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947, originally referred dispute between Shri Ram Mehar Singh, workman and M/s. National Fertilizers Limited, Panipat, to Labour Court, Rohtak. The terms of the reference are as under:—

"Whether the dismissal of Shri Ram Mehar Singh was justified and in order, if not, to what relief is he entitled?"

On constitution of this Court in April, 1984, this reference was received by transfer.

Workman Ram Mehar Singh through his statement of claim alleged that he was working as a Peon-cum-Messenger and has been drawing Rs. 510 per mensem. There were two more Peon-cum-Messenger, namely Vishnu Dutt and Devi Dass. All of them used to work under the supervision of Shri K. S. Jain, Clerk-cum-Typist. On 15th February, 1978, he was charge-sheeted to which he replied thereafter an Inquiry Officer was appointed who went into allegations against him. The appointment of Inquiry Officer was against the rules. Inquiry Officer did not conduct the enquiry in a proper and fair manner. He was not given an opportunity of being heard by the Inquiry Officer. No final show cause notice was served upon him. The dismissal orders were never passed by the competent authority. His dismissal is based on incorrect allegations which were never prayed so he prayed that dismissal orders be set-aside and he be reinstated with continuity in service and with full back-wages.

Respondent contested the dispute contended that the allegations made in the statement of claim by the workman are entirely incorrect. It was contended that in fact the workman misappropriated the funds of the respondent's management. To go into the matter Inquiry Officer was appointed properly, workman was given full opportunity to cross-examine the witnesses, lead his defence and to defend his case but the allegations of mis-appropriation were proved against him beyond doubts. In these circumstances the management thought it better to dispensed with the services of the workman. Accordingly he was terminated.

On the pleadings of the parties, the following issues were framed for the just decision of the dispute:—

ISSUES:

- (1) Whether the Central Government and not the State Government is the appropriate Government for making the reference? If so to what effect?
- (2) Whether the domestic enquiry conducted by the management is fair, proper and in accordance with rules of natural justice?
- (3) As per the term of reference?

I have heard Shri Raghubir Singh Ld. authorised representative for workman and Shri Surinder Kaushal for respondent and have perused the oral and documentary evidence placed on the file, my issue-wise findings are as under:—

ISSUE NO. 1:

This issue has been decided by my Ld. predecessor Shri B. L. Dalal the then Presiding Officer, Labour Court, Rohfak, he held that in the case in hand the State of Haryana is the proper authority to refer this dispute for adjudication to Labour Court. So this issue was decided against the management.

ISSUES NOS. 2 AND 3:

Since both the issues are inter-linked so both are taken up together for discussions and findings.

Management in support of his case-examined MW-1, Shri C.V.S. Gouri Shankar an Manager National Fertilizer Ltd. He was an Inquiry Officer, he stated that he conducted inquiry in a proper and fair manner, He afforded full opportunity to workman to defend himself. Copies of statements and records demanded by the workman were furnished to him. He was also allowed to inspect the inquiry proceedings as well as concerned records.

Shri R. K. Goel, Personal Manager, supported the Inquiry version, he also stated that the orders which were passed by Shri H. C. Grover, who was appointing authority of Ram Mehar Singh were conveyed to workman. He also stated that the termination orders, Exhibit MW-2/8 were passed by Shri H. C. Grover which were intimated by him to workman,—vide, Exhibit MW-2/12.

Workman examined Shri Vishnu Dutt, his co-worker who admitted that it is correct that full opportunity at the time of inquiry was given to him as well as to Shri Ram Mehar Singh and others, he also stated that the file and documents were inspected by him during the course of Inquiry as well as by Shri Ram Mehar Singh and others.

Ram Mehar Singh appeared as WW-2. He admitted that the charge-sheet was received by him. He furnished the reply of the same. Inquiry conducted by Shri C. V. S. Gouri Shankar. He inspected the despatch register during course of Inquiry as well as Attendance Register and other documents which were produced.

The main contentions of Ld. authorised representative of workman are that inquiry was not fair and impartial and punishment is too harsh. He also contended that Shri R. K. Goel, appointed Inquiry Officer he issued termination order who was not an competent person to do so fourthly he argued that in the inquiry report no allegations were proved against Shri Ram Mehar Singh, workman.

But these contentions are not proved by evidence lead by the workman, because the workman even could not dare to put even an suggestion to Shri C. V. S. Gouri Shankar Inquiry Officer, that he did not conduct the inquiry in a fair and proper manner and in other words his report is biased and partial. In other words Shri C. C. S. Gouri Shankar categorically stated on oath that, the charge-sheet was served upon the workman. Shri Ram Mehar Singh submitted his reply witnesses were examined in the presence of Shri Ram Mehar Singh. Workman cross-examined them. Workman inspected the file and documents. This fact finds support from the statement of Shri Vishnu Dutt and Shri R. K. Goel even major portion of these facts have been admitted by the workman himself.

Shri C. V. S. Gouri Shankar in his statement as well as in his inquiry report has given clear findings that Shri Ram Mehar Singh was entrusted Rs. 262.50 Paise at different times for issuing telegrams, out of that sum he made embezzlement of Rs. 47.75. Final show-cause notice was also served upon him which he replied and thereafter Shri H. C. Grover after going into the matter dispense with services of Shri Ram Mehar Singh. Show cause notice is Exhibit MW-2/6. Reply of workman is Exhibit MW-2/7 and final order of dismissal is Exhibit MW-2/8.

In view of this above evidence I reach at the conclusion that the inquiry was proper and fair. The Inquiry Officer acted honestly and earnestly in the performance of his duties as an Inquiry Officer.

The punishment which was inflicted upon Shri Ram Mehar Singh is also proper because he mis-appropriated the funds of the respondent-management and thus he lost the confidence of the management reposed in him.

From the statement of Shri R. K. Goel and from the inquiry file it is evident that Inquiry Officer was appointed by the competent authority by Shri H. C. Grover. Termination orders were also passed by the competent authority. Shri R. K. Goel simply conveyed those orders to the workman. The another content of the workman is also baseless regarding that the inquiry report is not against him but a perusal of the inquiry report shows that the Inquiry Officer hold Shri Ram Mehar Singh liable for mis-appropriation of funds. So all the contentions and pleas taken by the workman are not proved. On the other hand the management has been able to establish that the inquiry is proper and fair. Termination orders were passed by the Competent Authority on the basis of allegations of embezzlement of funds.

Ld. Authorised Representative of workman referred to standing orders which were not in force at the time of alleged termination at that time model standing orders were applicable to workman which were followed. So I reach at the conclusion that the inquiry is fair and proper. Termination order is just and in order.

I pass my award accordingly, regarding the dispute in hand.

The 12th December, 1985.

V. P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala.

Endorsement No. 3287, dated 31st December, 1985.

Forwarded (four copies), to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

V. P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala.

The 12th December, 1985.

The 15th April, 1986

No. 9/8/86-6Lab/2808.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workman and the management of M/s S. G. Steel Pvt. Ltd., Sector 4, Plot No. 6, Ballabgarh.

IN THE COURT OF SHRI R. N. SINGAL, PRESIDING OFFICER, LABOUR COURT, FARIDABAD

Reference No. 357 of 1984.

between

SHRI SAVIR HUSSAN AND THE MANAGEMENT OF M/S. S. G. STEEL PVT. LTD., SECTOR 4, PLOT NO. 6, BALLABGARH.

Present :—

Shri Manohar Lal for the workman.

Shri A. K. Sharma, for the respondent-management.

AWARD

This industrial dispute between the workman Shri Savir Hussain and the respondent-management of M/s. S. G. Steel Pvt. Ltd., Plot No. 6, Sector 4, Ballabgarh, has been referred to this Court by the Hon'ble Governor of Haryana,—vide his order No. ID/FD/32736-91, dated 30th August, 1984, under section 10(1)(c) of the Industrial Disputes Act, 1947, for adjudication. The terms of the reference are:—

Whether the termination of services of Shri Savir Hussain was justified and in order? If not, to what relief is he entitled?

The parties have settled their dispute. According to the statement of representative of parties, the workman has settled his dispute. Photo copy of the settlement is Ex. M-1. He has received Rs 4,000.00 in full and final settlement of all his claims. Photo copy of the receipt is Ex. M-2. He has no right of reinstatement/re-employment with the management.

In view of the above settlement, the award is given that the dispute has been fully settled.

R. N. SINGAL,

Dated the 12th March, 1986.

Presiding Officer,
Labour Court, Faridabad.

Endst. No. 765, dated 18th March, 1986

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Department, Chandigarh, as required under Section 15 of the Industrial Disputes Act, 1947.

R. N. SINGAL,

Presiding Officer,
Labour Court, Faridabad.

No. 9/8/86-6Lab/2810.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workman and the management of M/s S. G. Steel Pvt. Ltd., Plot No. 6, Sector 4, Ballabgarh.

IN THE COURT OF SHRI R. N. SINGAL, PRESIDING OFFICER, LABOUR COURT,
FARIDABAD

Reference No. 338 of 1984

between

SHRI BHAL CHAND AND THE MANAGEMENT OF M/S S.G. STEEL PVT. LTD., PLOT NO. 6,
SECTOR 4, BALLABGARH

Present :

Shri Manohar Lal, for the workman.

Shri A. K. Sharma, for the respondent-management.

AWARD

This industrial dispute between the workman Shri Bhal Chand and the respondent-management of M/s S.G. Steel Pvt. Ltd., Plot No. 6, Sector 4, Ballabgarh, has been referred to this Court by the Hon'ble Governor of Haryana, vide his order No. ID/FD/45-84/31983-88, dated 28th August, 1984, under section 10(1)(c) of the Industrial Disputes Act, 1947, for adjudication. The terms of the reference are :—

Whether the termination of services of Shri Bhal Chand was justified and in order ? If not, to what relief is he entitled ?

The parties have settled their dispute. According to the statement of representatives of parties, the workman has settled his dispute. Photo copy of the settlement is Ex. M-1. He has received Rs. 5,300.00 in full and final settlement of all his claims. Photo copy of the receipt is Ex. M-2. He has no right of reinstatement/re-employment with the management.

In view of the above settlement, the award is given that the dispute has been fully settled.

R. N. SINGAL,

Dated the 12th March, 1986.

Presiding Officer,
Labour Court, Faridabad.

Endst. No. 767, dated the 18th March, 1986

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Department, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

R. N. SINGAL,

Presiding Officer,
Labour Court, Faridabad.